

A Cherie Booth QC v Attorney General, Malaysia & Ors

B FEDERAL COURT (PUTRAJAYA) — CIVIL APPEAL NO 02–22 OF 2006(W)
AHMAD FAIRUZ CHIEF JUSTICE, RICHARD MALANJUM CJ (SABAH &
SARAWAK), ABDUL HAMID MOHAMAD, ALAUDDIN AND NIK
HASHIM FCJJ
18 SEPTEMBER 2006

C *Legal Profession — Admission — Ad hoc — Queen's Counsel — Special qualifications or experience — Whether refers to particular field of law to which a particular case is related — Whether available amongst local advocates and solicitors in Malaysia — Legal Profession Act 1976 s 18(1)*

D *Legal Profession — Admission — Objection — Right of appeal by objectors — Persons entitled to appeal — Whether adversaries or parties to litigation entitled to appeal — Legal Profession Act 1976 s 19*

E The appellant, an English QC, applied for an ad hoc admission to the Malaysian Bar pursuant to s 18(1) of the Legal Profession Act 1976 ('the LPA') for the purpose of appearing in two Federal Court appeals. The appeals concerned, inter alia, the following issues: (i) the interpretation of s 64 of the Companies Act 1965; (ii) the interpretation of s 75 of the Contracts Act 1950; and (iii) judicial bias. The appellant's application was opposed by the other parties to the litigation; interveners and certain institutional bodies. At first instance, the High Court dismissed the appellant's application and she thus appealed directly to the Federal Court pursuant to s 19 of the LPA.

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Held, dismissing the appeal with costs:

H (1) Under s 19 of the LPA, only the institutional bodies such as the Attorney General, the Bar Council and the Bar Committee who are regarded as 'objectors' and the applicant have a right of appeal to the Federal Court on a decision of the High Court under s 18(1) of the LPA. Adversaries and interveners are not entitled to object to or support the applicant's application. They may express their views, which the court must have regard to. However, the court is not bound by their views (see para 8).

I (2) In the instant case, the High Court was right in holding that the appellant was a leading Queen's Counsel distinguishing herself in public and administrative law. However, the High Court erred when it held that it was not sufficient that the appellant was a specialist in public law, but that she had also to be a specialist on the issue of judicial bias. The phrase 'special qualifications and

experience' under s 18(1)(a) of the LPA refers to the particular field of the law which a particular case is related to, and not in respect of each and every issue that arises in that case (see para 17).

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- (3) The special qualifications or experience required under s 18(1)(a) of the LPA must be of a high degree of quality and type which cannot be found in local lawyers (see para 20).

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- (4) In the instant appeals, the Federal Court would agree with the High Court that there were local advocates and solicitors very much able to interpret and argue the authorities surrounding s 64 of the Companies Act 1965 and s 75 of the Contracts Act 1950. Concerning the issue of judicial bias, there were Malaysian lawyers who had a deep understanding of the law on judicial bias to effectively submit to the court. In Malaysia the law in relation to judicial bias is premised on the 'real danger of bias' test as propounded in *R v Gough* [1993] AC 646. This was unlike the United Kingdom, where the appellant practised, where the test is premised on the 'real possibility of bias' test as advocated by the House Lords in *Porter & Anor v Magill* [2002] 1 All ER 465. In the instant case, it was not true to say that there were no local advocates and solicitors with the quality and experience able to handle the appeals (see paras 21, 23, 25).

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- (5) The appellant was not present during the trial in the High Court and in the Court of Appeal. This gave rise to the question to what extent the appellant would effectively be able to assist the Federal Court. A foreign counsel, lacking in local knowledge and not having handled the trial and the appeal, would necessarily be disadvantaged in handling the appeals in the Federal Court (see para 26).

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- (6) It had not been demonstrated that for the two appeals before the Federal Court, the appellant has special qualifications and experience of a nature not available amongst advocates and solicitors in Malaysia. The two appeals could competently be handled by a local advocate and solicitor (see para 27).

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Editorial Note: The Federal Court expressed its reservation on the correctness of the decision in *Attorney General & Ors v Geoffrey Robertson* [2002] 2 MLJ 449 where the Federal Court ruled that s 11(2) of the LPA is not applicable to an ad hoc admission under s 18(1) of the LPA (see para 28).

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[Bahasa Malaysia summary]

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Perayu, seorang QC Inggeris telah memohon kemasukan ad hoc ke Majlis Peguam Malaysia menurut s 18(1) Akta Profesyen Undang-Undang 1976 ('APUU') bagi tujuan menghadirkan diri dalam dua rayuan Mahkamah Persekutuan. Rayuan-rayuan tersebut adalah berkaitan, antara lain, isu-isu berikut: (i) pentafsiran s 64 Akta Syarikat 1965; (ii) Pentafsiran s 75 Akta Kontrak 1950; dan (iii) kehakiman berat sebelah. Permohonan perayu telah ditentang oleh pihak-pihak lain dalam litigasi, pencelah-pencelah dan badan institusi tertentu. Pada mulanya, Mahkamah Tinggi telah menolak permohonan perayu dan beliau oleh itu telah merayu terus ke Mahkamah Persekutuan menurut s 19 APUU.

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- A** **Diputuskan**, menolak rayuan tersebut dengan kos:
- B** (1) Di bawah s 19 APUU, hanya badan institusi seperti Peguam Negara, Majlis Peguam dan Jawatankuasa Peguam dianggap sebagai 'objectors' dan pemohon mempunyai hak untuk merayu ke Mahkamah Persekutuan atas satu keputusan Mahkamah Tinggi di bawah s 18(1) APUU. Pihak lawan dan pencelah-pencelah tidak berhak untuk menentang atau menyokong permohonan pemohon. Mereka boleh memberikan pendapat mereka, yang mana mahkamah boleh ambilkira. Namun, mahkamah tidak terikat oleh pendapat-pendapat mereka itu (lihat perenggan 8).
- C** (2) Dalam kes ini, Mahkamah Tinggi adalah betul dalam memutuskan bahawa perayu merupakan Queen's Counsel terkemuka yang membezakan dirinya dalam undang-undang awam dan pentadbiran. Namun, Mahkamah Tinggi terkhilaf apabila ia memutuskan bahawa ia tidak mencukupi bahawa perayu seorang pakar undang-undang awam, tetapi bahawa beliau juga perlu pakar tentang isu-isu kehakiman berat sebelah. Frasa 'special qualifications and experience' di bawah s 18(1) APUU merujuk kepada bidang undang-undang tertentu yang man suatu kes tertentu adalah berkaitan, dan bukan berkaitan setiap isu yang timbul dalam kes itu (lihat perenggan 17).
- D** (3) Kelayakan atau pengalaman istimewa yang diperlukan di bawah s 18(1) APUU hendaklah merupakan tahap kualiti dan jenis yang tinggi yang tidak ditemui dalam peguam tempatan (lihat perenggan 20).
- E** (4) Dalam rayuan-rayuan ini, Mahkamah Rayuan bersetuju dengan Mahkamah Tinggi bahawa terdapat peguambela dan peguam cara tempatan yang mampu mentafsirkan dan menghujahkan autoriti-autoriti berkisarkan s 64 Akta Syarikat 1965 dan s 75 Akta Kontrak 1950. Berkaitan isu kehakiman yang berat sebelah, terdapat peguam Malaysia yang mempunyai kefahaman mendalam tentang undang-undang kehakiman berat sebelah untuk dihujahkan secara berkesan si mahkamah. Di Malaysia, undang-undang berkaitan kehakiman berat sebelah adalah berdasarkan atas ujian 'real danger of bias' seperti yang dikemukakan dalam *R v Gough* [1993] AC 646. Ini berbeza dengan United Kingdom, di mana perayu beramal, di mana ujian adalah berdasarkan ujian 'real possibility of bias' seperti yang disokong oleh House of Lords dalam *Porter & Anor v Magill* [2002] 1 All ER 465. Dalam kes semasa, adalah tidak benar untuk menyatakan bahawa tiada peguam tempatan dengan kualiti dan pengalaman tersebut untuk mengendalikan rayuan-rayuan itu (lihat perenggan 21, 23, 25).
- F** (5) Perayu tidak hadir semasa perbicaraan di Mahkamah Tinggi dan di Mahkamah Rayuan. Ini menimbulkan persoalan tentang setakat mana perayu secara berkesan dapat membantu Mahkamah Persekutuan. Seorang peguam asing, tanpa pengetahuan tempatan yang mencukupi dan tidak mengendalikan perbicaraan dan rayuan, semestinya tiada kelebihan dalam mengendalikan rayuan-rayuan di Mahkamah Persekutuan (lihat perenggan 26).
- G** (6) Tidak ditunjukkan bahawa untuk kedua-dua rayuan di hadapan Mahkamah Persekutuan, perayu mempunyai kelayakan dan pengalaman yang istimewa sifatnya yang tidak terdapat di kalangan peguambela dan peguamcara
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- I**

di Malaysia. Kedua-dua rayuan tersebut boleh dengan kompetennya dikendalikan oleh peguambela dan peguamcara tempatan (lihat perenggan 27).

Nota Editorial: Mahkamah Persekutuan menyatakan keraguan tentang ketepatan keputusan dalam *Attorney General & Ors v Geoffrey Robertson* [2002] 2 MLJ 449 di mana Mahkamah Persekutuan memutuskan bahawa s 11(2) APUU tidak terpakai kepada kemasukan ad hoc di bawah s 18(1) APUU (lihat perenggan 28).]

Notes

For cases on ad hoc admission, see 9 *Mallal's Digest* (4th Ed, 2002 Reissue) paras 1439–1473.

For cases on objection of admission, see 9 *Mallal's Digest* (4th Ed, 2002 Reissue) paras 1483–1485.

Cases referred to

Attorney General & Ors v Geoffrey Robertson [2002] 2 MLJ 449 (refd)

Charles Gray QC, Re [1998] 3 MLJ 413 (refd)

Dato' Tan Heng Chiew v Tan Kim Hor [2006] 2 MLJ 293 (refd)

Fawziah Holdings Sdn Bhd v Metramac Corp Sdn Bhd (Formerly Known As Syarikat Teratai Kg Sdn Bhd) and another appeal [2006] 1 MLJ 505 (refd)

Graham Starforth Hill, Re [1971] 2 MLJ 269 (refd)

Insas Bhd & Anor v Ayer Molek Rubber Co Bhd & Ors [1995] 2 MLJ 833 (refd)

Jude Philomen Benny v Majlis Peguam Malaysia [1997] 5 MLJ 306 (refd)

Majlis Perbandaran Pulau Pinang v Syarikat Bekerjasama-sama Serbaguna Sungai Gelugor dengan Tanggungan [1999] 3 MLJ 1 (refd)

Mohamed Ezam bin Mohd Nor & Ors v Ketua Polis Negara [2002] 1 MLJ 321 (refd)

Phileo Promenade Sdn Bhd & Anor v Premier Model (M) Sdn Bhd [2003] 2 MLJ 159 (refd)

Porter & Anor v Magill [2002] 1 All ER 465 (refd)

R v Gough [1993] AC 646 (refd)

SK Lee, Re [1971] 2 MLJ 40

Selva Kumar all Murugiah v Thiagarajah all Retnasamy [1995] 1 MLJ 817 (refd)

Legislation referred to

Companies Act 1965 s 64

Contracts Act 1950 s 75

Legal Profession Act 1976 ss 18(1)(a), (3), 19

Appeal from: Originating Motion No R2–17–9 of 2006 (High Court, Kuala Lumpur)

Dr Cyrus Das (Benjamin Dawson, Steven Thiru, Noraisyah Abu Bakar, Koh San Tee and David Mathew with him) (Noraisyah & Co) for the appellants.

Azizah Hj Nawawi (Suzanna Atan with her) (Senior Federal Counsels, Attorney General's Chambers) for the first respondent.

George Varghese (George Varghese & Co) for the second respondent, Bar Council Malaysia.

M Puravelan (Sanjeev Kumar with him) (GK Ganesan Saiful & Rokiah) for the third respondent, Kuala Lumpur Bar Committee.

- A *Muhammad Shafee Abdullah (S Sivaneindiren and Peter Skelchy with him) (Cheah Teh & Su) for the fourth respondent, Metramac Corp Sdn Bhd.*
Cecil Abraham (Sunil Abraham with him) (Shearn Delamore) for the fifth respondent, Tun Che Abdul Daim bin Hj Zainuddin.
Tommy Thomas (Alan Gomez and Jason Wee) (Tommy Thomas) for the sixth respondent, Tan Sri Halim bin Saad.
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Nik Hashim FCJ (delivering judgment of the court):

BACKGROUND

- C [1] This appeal came before us on 14 June 2006. The appeal is against the decision of the High Court Kuala Lumpur refusing the application of an ad hoc admission of the appellant, Cherie Booth QC to the Malaysian Bar pursuant to s 18(1) of the Legal Profession Act 1976 ('the LPA') for the purpose of appearing in two Federal Court appeals: *Metramac Corp Sdn Bhd v Fawziah Holdings Sdn Bhd* (Civil Appeal Nos 02–19 of 2006 (W) and 02–20 of 2006 (W)).
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- E [2] The Court of Appeal which first heard the two appeals delivered its decision on 12 January 2006 in favour of Fawziah Holdings and awarded the sum of RM65,182,920 with interest and further decreed that sums due under certain 'future contracts' were to be assessed and paid to Fawziah Holdings. The decision of the Court of Appeal was reported in *Fawziah Holdings Sdn Bhd v Metramac Corp Sdn Bhd (Formerly Known As Syarikat Teratai Kg Sdn Bhd) and another appeal* [2006] 1 MLJ 505.
- F [3] In the course of its judgment, the Court of Appeal had made observations about certain third parties namely Tun Daim Zainuddin and Tan Sri Halim Saad who later applied to intervene in the Federal Court to expunge all the remarks made about them in the judgment.
- G [4] On 15 May 2006, the Federal Court gave leave to Metramac to appeal against the judgment of the Court of Appeal on the following three questions:
- H (i) whether the creation of a trust under the agreement amounts to an illegal reduction of its capital.
- I (ii) whether the test adopted by the Court of Appeal in determining whether cl 8 of the Signage Agreement is a stipulation by way of a penalty and/or a sum named in the contract for purposes of s 75 of the Contracts Act 1950, is the correct test/or is exhaustive
- (iii) whether the Court of Appeal's adverse remarks in the circumstances of the case showed a real danger of bias in the judgment arrived at against Metramac.
- [5] And at the same time, the Federal Court directed that the applications by the interveners to expunge the remarks are to be heard together with the appeals proper.
- [6] This appeal comes direct to the Federal Court by virtue of s 19 of the LPA.

[7] The Attorney General, the Bar Council, the Kuala Lumpur Bar Committee, Metramac and the two interveners namely Tun Daim Zainuddin and Tan Sri Halim Saad, took a united stand to oppose the application. Their main ground of objection was that the appellant had no special qualifications or experience of a nature not available amongst advocates and solicitors in Malaysia.

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[8] It is worthy of note that under s 19 of the LPA only the institutional bodies, ie the Attorney General, the Bar Council and the Bar Committee who are regarded as 'objectors' and the appellant applicant have a right of appeal to the Federal Court on a decision of the High Court under s 18(1) of the LPA. It therefore follows that the adversaries on the appeal like Metramac and the interveners are not entitled to object or support the appellant's applications. They may express their views which the court must have regard to (see s 18(3) of the LPA) but the court is not bound by their views.

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[9] At the conclusion of the arguments of all the parties, we, on 15 June 2006, unanimously dismissed the appeal with costs. Here are our reasons.

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SPECIAL QUALIFICATIONS OR EXPERIENCE

[10] Section 18(1) of the LPA reads:

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Notwithstanding anything contained in this Act, the Court may, for the purpose of any one case and subject to the following subsections, admit to practise as an advocate and solicitor any person who if he was a citizen of, or a permanent resident in, Malaysia, would be eligible to be admitted as an advocate and solicitor of the High Court and no person shall be admitted to practise as an advocate and solicitor under this subsection unless —

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- (a) for the purpose of that particular case he has, in the opinion of the Court, special qualifications or experience of a nature not available amongst advocates and solicitors in Malaysia; and
- (b) he has been instructed by an advocate and solicitor in Malaysia.

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[11] The onus is on the appellant to show that she has special qualifications or experience of a nature not available amongst advocates and solicitors in Malaysia (see *Jude Philomen Benny v Majlis Peguam Malaysia* [1997] 5 MLJ 306).

[12] On s 18(1)(b) of the LPA, it is a non-issue as the appellant has satisfied its requirement.

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[13] According to Sharma J in *Re SK Lee* [1971] 2 MLJ 40, the words 'special qualifications' mean:

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... an accomplishment of an exceptional degree on such that excels in some way the measure of accomplishments reached by the advocates and solicitors of Malaysia ... Instances would be of persons who specialize, for example, in income tax law, or trade marks, divorce practice, shipping law, etc and have achieved such heights in the exercise of their profession that they stand out as great luminaries in the firmament of law.

- A [14] Whereas Mohd Dzaiddin J (as he then was) in *Re B Larbalestier QC* [1988] 1 MLJ 135 opined ‘special qualifications or experience’ as follows:

I think what the law intended to mean is that special qualifications or experience are required to be of a quality and type which cannot be had amongst the advocates and solicitors in Malaysia.

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- [15] And in *Re Graham Starforth Hill* [1971] 2 MLJ 269 at pp 270 and 271 para ‘I’, Mohamed Azmi J (as he then was) described ‘special qualifications or experience’ as follows:

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In my view, the words ‘special qualifications or experience’ refer to the particular branch of the law as a whole to which the relevant case relates rather than to the facts of the case or to a particular statute or certain provisions of that statute to which the case may relate.

- D The above view of Mohamed Azmi J (as he then was) was discussed and adopted in *Re Charles Gray QC* [1998] 3 MLJ 413.

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- [16] Thus, applying the above principles to the facts of this case, we agree with the learned counsel for the appellant that the appellant is an outstanding Queen’s Counsel specializing in public law, administrative law and commercial law. She was called to the English Bar in 1976. In the Matrix Chambers website, she is described as ‘Cherie is a leading Silk specializing in public law ...’ (see p 940 vol 3 of the appeal record). She was also described in the international legal publication called *Legal 500* as a leader, inter alia, in administrative and public law. The appellant further appears regularly in the British House of Lords and Court of Appeal. She has also appeared in the European Court of Justice and in Commonwealth jurisdictions like Bermuda and the Cayman Islands. In addition, she is also a recorder (part time judge) in the County Court and Crown Court and has given numerous public lectures and has authored many articles and books.

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- [17] Therefore, on the appellant’s expertise, the learned judge was right in holding that the appellant is a leading Queen’s Counsel distinguishing herself in public and administrative law. However, the learned judge was not quite right when she held further that it is not sufficient that the appellant be a specialist in public law per se but that she must also be a specialist on the issue of judicial bias. As the learned judge said at p16 of the appeal record: ‘There is no evidence before me that she has appeared and argued before the court in the United Kingdom or anywhere else on the issue of judicial bias.’ To our minds, the ‘special qualifications and experience’ under s 18(1)(a) of the LPA refers to the particular field of the law which that particular case is related and not in respect of each and every issue that arises in that case (see *Re Graham Starforth Hill*). Thus, the learned judge’s insistence on specialization on a specific issue as opposed to the area of the law in which this case falls is too stringent a requirement. It is therefore erroneous on her part to impose such a requirement of qualification for an ad hoc admission under s 18(1)(a) of the LPA.

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NON-AVAILABILITY OF ADVOCATES AND SOLICITORS IN MALAYSIA

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[18] On the issue of non-availability of advocates and solicitors in Malaysia with similar qualifications or experience, we respectfully agree with the opinion of the learned High Court judge that such expertise are available amongst local advocates and solicitors.

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[19] Sharma J in *SK Lee*, observed:

The words 'not available' used in sub-s (2)(a) [of s 8A of the Advocates and Solicitors Ordinance 1947 which are in pari materia with s 18(1)(a) of the LPA] seem to mean 'not obtainable'. It would thus seem that it is the excelling virtue born of the applicant's special qualifications or experience that has got to be considered and that excelling virtue must be such as outclasses the excellence to be found in the local lawyers. The special qualifications or experience are required to be of a quality and type which cannot be had amongst the advocates and solicitors in Malaysia: The applicant may have special qualifications or experience but that alone does not seem to be sufficient under the statute. He has to go further and satisfy the court that the special qualifications he possesses or the experience he professes to have are comparatively of such a type and character that no advocate and solicitor practising in Malaysia can be said to possess or equal that high degree of accomplishment which has been acquired or exhibited by the applicant. I have said earlier that in my view s 8A seems apparently aimed to facilitate the admission of those members of the Bar from other countries who have attained renown and distinction.

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[20] We fully subscribe to Sharma J's observation on the words 'not available' in relation to the non-availability of local advocates and solicitors with the special qualifications or experience in comparison to the special qualifications or experience of an applicant for an ad hoc admission to the Malaysian Bar. The special qualifications or experience that is required under s 18(1)(a) of the LPA must be of a high degree of quality and type which cannot be found in local lawyers.

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[21] With regard to the questions framed for the purpose of the appeal before the Federal Court, the first and second questions involve the interpretation of s 64 of the Companies Act 1965 and s 75 of the Contracts Act 1950 respectively. In so far as the second question is concerned, there is a Federal Court decision in *Selva Kumar all Murugiah v Thiagarajah all Retnasamy* [1995] 1 MLJ 817 in which local Malaysian counsel appeared. Thus, I agree with the learned judge when she said at p16 of her judgment on the two questions:

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To my mind, a local advocate and solicitor will be very much placed to interpret and argue the authorities of s 64 of the Companies Act and s75 of the Contracts Act.

[22] The third question is that of judicial bias. The laws on the issue of judicial bias have been decided by our Federal Court in the following cases:

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- (i) *Majlis Perbandaran Pulau Pinang v Syarikat Bekerjasama-sama Serbaguna Sungai Gelugor dengan Tanggungan* [1999] 3 MLJ 1;
- (ii) *Mohamed Ezam bin Mohd Nor & Ors v Ketua Polis Negara* [2002] 1 MLJ 321; and

- A** (iii) *Dato' Tan Heng Chiew v Tan Kim Hor* [2006] 2 MLJ 293.
- And in these cases the parties were represented by Malaysian lawyers, namely, Dato' Dr Cyrus Das, Dato' RR Sethu, Dato' Cecil Abraham, Dato' Muhammad Shafee Abdullah and Tuan Haji Sulaiman Abdullah, to mention a few. Obviously, they must have a deep understanding of the law on judicial bias to effectively submit to the court.
- B**
- C** [23] It must be noted that in Malaysia the law in relation to judicial bias is premised on the 'real danger of bias' test as propounded in *R v Gough* [1993] AC 646 unlike in the United Kingdom, where the appellant is practising, the test is premised on the 'real possibility of bias' as advocated by the House Lords in *Porter & Anor v Magill* [2002] 1 All ER 465.
- D** [24] On the issue of expunging the remarks made by the Court of Appeal in its written grounds of judgment against the interveners, there is indeed clear indication from local authorities as to the circumstances in which such applications will be allowed. There are two Malaysian cases on the point and they were ably argued by our advocates and solicitors. These two cases are:
- (i) *Insas Bhd & Anor v Ayer Molek Rubber Co Bhd & Ors* [1995] 2 MLJ 833; and
- E** (ii) *Phileo Promenade Sdn Bhd & Anor v Premier Model (M) Sdn Bhd* [2003] 2 MLJ 159.
- F** [25] Now reverting to the appeal before us, it is pertinent to note that Fawziah Holdings had appointed Dato' RR Sethu as senior counsel to argue the case in the High Court. In the Court of Appeal, Fawziah Holdings appointed Dato' Dr Cyrus Das as senior counsel. Both are senior members of the Bar and they are experienced and capable of handling the pending appeals in the Federal Court. Dato' Dr Cyrus Das (called to the Malaysian Bar in 1973) and Dato' RR Sethu are familiar personalities in this court and we are all aware of their capabilities as counsel. They need no introduction. It is therefore not true that there is no availability of local advocates and solicitors of a quality and type amongst the 12,000 of them in Malaysia who are equally qualified and experienced to handle the appeals before us.
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- H** [26] Further, there is another matter that needs to be considered. The appellant was not present during the trial in the High Court and in the Court of Appeal. Thus, the question — to what extent the appellant would effectively be able to assist the Federal Court? Surely, a foreign counsel, like the appellant, lacking in local knowledge and not having handled the trial and the appeal, would necessarily be disadvantaged in handling the appeals in the Federal Court.
- I** [27] In the light of the above, we with regret had to dismiss the appellant's appeal with costs because we agreed with the learned judge of the High Court that it has not been demonstrated that for the two appeals before the Federal Court, the appellant has special qualifications and experience of a nature not available amongst advocates and solicitors in Malaysia. The two appeals could competently be handled by a local advocate and solicitor.

[28] However, that is not the end of the matter. At the outset of the hearing of this appeal, the Right Honourable Chief Justice Tun Dato' Sri Ahmad Fairuz bin Dato' Sheikh Abdul Halim questioned whether foreign lawyers could be admitted to the Bar without Bahasa Malaysia qualification as required under s 11(2) of the LPA. After hearing the parties, we expressed our reservation on the correctness of the decision in *Attorney General & Ors v Geoffrey Robertson* [2002] 2 MLJ 449 where the Federal Court ruled that s 11(2) is not applicable to an ad hoc admission under s 18(1) of the LPA. We, however, did not propose to revisit the decision at this juncture as it was not essential for the determination of this appeal. We would leave the matter to another occasion.

[29] The learned Chief Justice, the learned CJ (Sabah and Sarawak) and my learned brothers, Abdul Hamid Mohamad and Alauddin FCJJ, had read this judgment in draft and had expressed their agreement with it.

Appeal dismissed with costs.

Reported by John Paul Simon

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